

REMARKS

Applicant has carefully studied the Office Action of November 9, 2004, and offers the following remarks in response thereto.

Rejection of Claims 1, 4-9, 11-21, and 28-33 Under 35 U.S.C. § 103 – Coppola et al., Devine et al., and Kohut et al.

Claims 1, 4-9, 11-21, and 28-33 were rejected under 35 U.S.C. § 103 as being unpatentable over Coppola et al. (hereinafter Coppola), in view of Devine et al. (hereinafter “Devine”), and further in view of Kohut et al. (hereinafter “Kohut”). Applicant respectfully traverses. When the Patent Office proposes a combination of references in the context of an obviousness rejection, the Patent Office must initially do two things for the combination to be proper. First, the Patent Office must articulate a motivation to combine the references. Second, the Patent Office must support the motivation to combine the references with actual evidence. *In re Dembiczak* 175 F.3d 994, 999 (Fed. Cir. 1999). While there are many sources of motivation, the variety of sources does not diminish the need for actual evidence. *Id.* This two step process has been mandated by the Federal Circuit to combat impermissible hindsight reconstruction.

Even if the combination of references is properly made and supported with the required actual evidence, for the Patent Office to establish *prima facie* obviousness, the combination of references must still teach or fairly suggest all the claim elements. MPEP § 2143.03. If a combination must be modified to show all the claim elements, then the Patent Office must again provide a motivation for the modification and further support the motivation for modification with actual evidence. *In re Fritch*, 972 F.2d 1260, 1264 (Fed. Cir. 1992).

The Patent Office’s rejection of the claims based on the combination of Coppola, Devine, and Kohut is improper in that the Patent Office has not provided the actual evidence required by the Federal Circuit. Specifically, the Patent Office opines that:

At the time of the invention it would have been obvious to one of ordinary skill in the art to have used a single router to direct web information from an application with a particular address to one of several connected browsers with a unique port identifier on a fuel dispenser having two points of sale, and therefore two browsers.

The suggestion/reason would have been to connect multiple browsers through a single router to the internet/web, as one ordinarily skilled in the art would recognize from figure 2.

(Office Action of November 9, 2004, page 3, lines 3-9). Applicant traverses this motivation because this motivation fails both prongs of the *Dembiczak* combination requirements.

Initially, there is no explanation provided by the Patent Office for why connecting multiple browsers through a single router to the Internet/web is desirable such that someone would want to connect multiple browsers through a single router to the Internet/web. Furthermore, it is unclear which "Figure 2" is being used to support the alleged motivation. Assuming, *arguendo*, that the Patent Office's citation is to Figure 2 of Devine, there is no such suggestion therein because there are at least two routers which have only a single browser attached thereto. As such, there is no evidence in Figure 2 of Devine that suggests that having multiple browsers connected to the internet through a single router is desirable. Figure 2 of Devine, at worst, indicates that a router with two browsers is no more desirable than a single router for a single browser. As such, the motivation proffered by the Patent Office is insufficient for a proper combination of the references.

Even if the references are properly combinable, (a point which applicant does not concede), the combination does not result in the claimed invention recited in claim 1 as required by MPEP § 2143.03 to support a *prima facie* case of obviousness. The Patent Office alleges that Applicant's display controller is equivalent to the Frame NAT/Router of Devine. Applicant traverses this assertion. Applicant's display controller has other functions besides the IP address and port assignments. Specifically, as recited in the claims, the display controller has a control system that runs the browser applications. The Frame NAT/Router of Devine does not run browser applications for each of the displays, and thus cannot be equivalent to the display controller recited in the claims.

Applicant further traverses the rejection because it is improper to put the functionality of the Frame NAT/Router of Devine into the display controller. Specifically, if the references are combined, the display manager 70 of Coppola communicates with the Frame NAT/Router of Devine through some unlabeled LAN (see the network line between the browsers and the Router on the left side of Devine's Figure 2) or perhaps the LAN 30 of Coppola. In any event, the router of Devine is separate and distinct from the device running the browsers in Devine. Thus, when Devine's router is combined with the fuel dispensers of Coppola, the router remains separate and distinct from the device running the browsers. To change Devine's router structure constitutes impermissible extraction of an isolated element from Devine.

Because the router is separate and distinct from the device running the browsers, the combination cannot teach or suggest that the display controller comprises a control system that runs the browser applications for each of said plurality of displays, the display controller is assigned one IP address, and each of the browser applications is assigned a unique port associated with the IP address. That is, based on the citations provided by the Patent Office, to show this aspect of the claimed invention, the display manager 70 of Coppola needs to incorporate the router of Devine. Devine's structure precludes such incorporation in a straight combination. Since the combination does not show the claimed invention, the Patent Office has not established *prima facie* obviousness, and the rejection is improper.

Applicant pre-emptively addresses the possibility that the Patent Office might opine it obvious to modify the combination of Coppola and Devine to move the router functionality into the display manager 70. As noted above, the Federal Circuit has rules about modifying combinations. Specifically, the Patent Office must provide a motivation to modify the combination, and further provide actual evidence to support the motivation to modify. *In re Fritch*. To date, the Patent Office has not articulated a motivation to modify the combination, nor has the Patent Office provided the requisite evidence.

Claims 4-9, 11, and 12 depend from claim 1, and are not obvious at least for the same reasons. In light of the foregoing, Applicant requests withdrawal of the rejection of claims 1, 4-9, 11, and 12 at this time.

Claim 13 also recites similar elements, and the rejection thereof is improper for the same reasons as presented above. Claims 28-33 depend from claim 13, and are not obvious at least for the same reasons. Applicant requests withdrawal of the rejection of claims 13 and 28-33 at this time.

Claim 14 recites assigning one IP address to the display controller and assigning a unique port associated with the IP address to each of the browser applications. As explained above, the display controller of the combination does not have the IP address, as recited in the claim, and thus the rejection is improper. Claims 15-19 depend from claim 14, and are allowable at least for the same reasons. Applicant requests withdrawal of the rejection of claims 14-19 at this time.

Claim 20 recites a multiple browser controller similar to the display controller of claim 1, and is not obvious for the same reasons. Claim 21 depends from claim 20, and is not obvious at

least for the same reasons. Applicant requests withdrawal of the rejection of claims 20 and 21 at this time.

Applicant acknowledges that most inventions are combinations of old elements. However, one of the things that makes an invention patentable is that there is no suggestion in the art to combine the old elements in the manner claimed. In the present case, the Patent Office has not satisfied the requirements set forth by the Federal Circuit for showing the motivation to combine the references and modify the elements to arrive at the claimed invention. Since the Patent Office has not satisfied these requirements, the claimed invention is allowable. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,
WITHROW & TERRANOVA, P.L.L.C.

By:


Steven N. Terranova
Registration No. 43,185
P.O. Box 1287
Cary, NC 27512
Telephone: (919) 654-4520

Date: December 13, 2004
Attorney Docket: 2400-667

CERTIFICATE OF TRANSMISSION
I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING
TRANSMITTED VIA FACSIMILE ON THE DATE INDICATED BELOW
TO:

Examiner: Shapiro, Jeffrey A. Art Unit: 3653 Fax: 703-872-9306

REBECCA ROOKS
Name of Sender
Rebecca K. Rooks
Signature
12/13/04
Date of Transmission